

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC,
Debtor.

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

/

MOTION FOR ORDER APPROVING COMPROMISE

Jurisdiction

1. Exigent Landscaping, LLC d/b/a Exigent Design and Build (“Debtor”) filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code on August 7, 2023 (“Petition Date”).
2. The Chapter 11 case was converted to a Chapter 7 on February 12, 2024 (ECF No. 152).
3. The Court has jurisdiction over this Chapter 7 bankruptcy case. *See* 28 U.S.C. § 1334. The case, and all related proceedings and contested matters, have been referred to this bankruptcy court for determination. *See* 28 U.S.C. § 157(a); LR 83.50 (E.D. Mich.).
4. This is a core proceeding over which this Court has authority to enter a final order. *See* 28 U.S.C. § 157(b)(2)(A) (matters concerning administration of the estate) and 28 U.S.C. § 157(b)(2)(O) (other proceedings affecting the liquidation of assets of the estate).

Background

5. On December 30, 2024, the Trustee initiated an adversary proceeding (“Adversary”) by filing a complaint against SCP Distributors, LLC (“SCP”) (Adv. Pro. 24-04445, ECF No. 1).

6. In the Adversary, the Trustee alleges that the Debtor made payments totaling \$167,210.88 to SCP within 90 days of the bankruptcy filing and payments totaling \$47,912.99 to SCP after the Petition Date.

7. The Trustee sought to avoid and recover the transfers from SCP under 11 U.S.C. §§ 547, 549 and 550.

8. Discovery has revealed that the post-petition transfers were authorized by the Court and, as such, are not avoidable by the Trustee and that SCP provided subsequent new value that reduces the Trustee’s preference claims to approximately \$32,000.

9. SCP has offered to pay a lump sum of \$25,000 to resolve the estate’s claims in the Adversary.

Legal basis for settlement

10. Bankruptcy Rule 9019(a) provides, in pertinent part, that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.”

11. Settlements are reviewed under the “business judgment rule,” which creates a presumption in favor of the Trustee. *See In re Woodberry*, 629 B.R. 239, 243 (Bankr. E.D. Mich. 2021) (citations omitted).

12. Compromises expedite the administration of the case, reduce administrative costs, and are favored in bankruptcy. *See In re McInerney*, 528 B.R. 684, 687 (Bankr. E.D. Mich. 2014); *In re Woodberry* at 629 B.R. at 243 (citations omitted).

13. In determining whether to approve a settlement, the bankruptcy court must apprise itself of the underlying facts and make an independent judgment as to whether the compromise is “fair and equitable.” *Reynolds v. Comm'r*, 861 F.2d 469, 473 (6th Cir.1988) (emphasis added).

14. The four factors that courts generally consider in evaluating whether a compromise is “fair and equitable” are:

- (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views.

In re McInerney, 528 B.R. at 689 (citations omitted).

15. Based on the defenses available to SCP as noted above, the risks and costs of further litigation, and the reasonableness of the offer, the Trustee recommends that this Court approve the proposed compromise.

Request for Relief

The Trustee respectfully requests that this Court enter an order in the form attached and grant such further relief as this court deems appropriate.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)
Attorney for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
clark@steinbergshapiro.com

Date: June 23, 2025

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC,
Debtor.

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

/

ORDER APPROVING COMPROMISE

This matter came before the Court upon the Trustee's Motion for Order Approving Compromise ("Motion"; ECF No. __). Required parties were served with the Motion and with notice of the deadline for objections. No objections were timely filed, and a certification of no response has been filed. The Court has reviewed the Motion and other pertinent pleadings and is advised in the premises.

IT IS ORDERED that the proposed compromise of the bankruptcy estate's claims against SCP Distributors, Inc. ("SCP") in Adversary Proceeding 24-04445 for a lump sum payment of \$25,000 (the "Settlement Amount") is approved.

IT IS FURTHER ORDERED that SCP must pay the Settlement Amount to "Mark H. Shapiro, Trustee" and deliver to Tracy M. Clark, Esq. at Steinberg Shapiro & Clark, 25925 Telegraph Rd., Suite 203, Southfield, Michigan 48033 within 20 days after entry of this Order.

IT IS FURTHER ORDERED that the Trustee will dismiss Adversary Proceeding 24-04445.

IT IS FURTHER ORDERED that SCP may amend its Proof of Claim no. 34 to include the Settlement Amount pursuant to 11 U.S.C. § 502(h).

IT IS FURTHER ORDERED that the Court reserves jurisdiction to enforce the terms of the settlement and this order.

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC, xx-xxx5176
dba Exigent Design and Build
13246 23 Mile Road
Shelby Township, MI 48315

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

Debtor.

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**21 DAY NOTICE OF TRUSTEE'S MOTION
FOR ORDER APPROVING COMPROMISE**

Chapter 7 Trustee Mark H. Shapiro seeks to compromise the claims asserted in against SCP Distributors LLC (“SCP”) in adversary proceeding 24-04445. In the adversary proceeding, the Trustee alleges that the Debtor made payments totaling \$167,210.88 to SCP within 90 days of the bankruptcy filing and payments totaling \$47,912.99 to SCP after the bankruptcy petition date. The Trustee sought to avoid and recover the transfers under 11 U.S.C. §§ 547, 549 and 550. Discovery has revealed that the post-petition transfers were authorized by the Court and, as such, are not avoidable by the Trustee and that SCP provided subsequent new value that reduces the Trustee’s preference claims to approximately \$32,000. Without further developing its defenses, SCP has offered to pay a lump sum of \$25,000 to resolve the estate’s claims. Based on the defenses available to SCP, the risks and costs of further litigation, and the reasonableness of the offer, the Trustee has asked the Court to approve the proposed compromise.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to approve the settlement, or if you want the Court to consider your views on the settlement, within 21 days from the date of this notice, you or your attorney must:

File with the Court a written objection or request for hearing, explaining your position at:¹

United States Bankruptcy Court
211 West Fort St.
Detroit, Michigan 48226

If you mail your objection or request for hearing to the Court for filing, you must mail it early enough so the court will **receive** it before the 21-day period expires. All attorneys are required to file pleadings electronically.

You must also send a copy to:

Tracy M. Clark, Esq.
Steinberg Shapiro & Clark
25925 Telegraph Rd., Suite 203
Southfield, MI 48033

If an objection or request for hearing is timely filed, the clerk will schedule a hearing and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)
Attorney for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
clark@steinbergshapiro.com

Date: June 23, 2025

¹Objection or request for hearing must comply with F.R. Civ.P. 8(b), (c) and (e).

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
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/

CERTIFICATE OF SERVICE

I certify that on June 23, 2025, I served copies as follows:

Document Served: 21 Day Notice of Trustee's Motion for Order Approving Compromise

Served Upon: All creditors with timely filed and allowed proofs of claim (*See L.B.R. 2002-2*) (see attached list)

Method of Service: First Class Mail

/s/ Christine T. Leach, Legal Assistant
Steinberg Shapiro & Clark
Attorneys for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
cbleach@steinbergshapiro.com

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| Claimant |
| 23 Mile Storage, LLC c/o Tommy Haji 965 Wanda Suite E Detroit, MI 48226 |
| 24 Capital 1545 Route 202 Suite 101 NY 10907 |
| 24 Capital, LLC 936 S.W. 1st Ave. Ste.271 Miami, FL 33130 |
| AUTO OWNERS INSURANCE COMPANY INC PO BOX 30660 LANSING, MI 48909 |
| Alex Boyd and Rebecca Boyd c/o John F. Harrington 30500 Van Dyke Ave Ste 200 Warren, MI 48093 |
| Ally Bank c/o AIS Portfolio Services, LLC 4515 N. Santa Fe Ave. Dept. APS Oklahoma City, OK 73118 |
| AmeriCredit Financial Services, Inc. dba GM Financial P O Box 183853 Arlington, TX 76096 |
| American Express National Bank c/o Becket and Lee LLP PO Box 3001 Malvern PA 19355-0701 |
| Angela Londono, a/k/a Angela Serrano c/o David M. Eisenberg, Esq. 28400 Northwestern Hwy., 2nd Floor Southfield, MI 48034 |
| Aqua Haul 2992 Gramer Rd Webberville, MI 48892-2992 |

Maria Ashkar & Ayham Ashkar
c/o Freddy Sackllah
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Farmington, MI 48336

BMO Bank N.A.
1625 W. Fountainhead Pkwy
Tempe, AZ 85282

Barajas Enterprise
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Lincoln Park, MI 48146

Bill
6220 America Center Dr. Suite 100
San Jose, CA 95002

CONSUMERS ENERGY COMPANY
Attn: Legal Dept
One Energy Plaza
Jackson, MI 49201

Calambas Pool Service
Hector Orozco
2654 Pearl St
Detroit MI 48209

Caterpillar Financial Services Corporation
James A. Plemmons
Dickinson Wright PLLC
500 Woodward Ave., Suite 4000
Detroit, MI 48226

Changhua Wang and Bin He
c/o Doron Yitzchaki, Esq.
Dickinson Wright PLLC
350 S. Main Street, Suite 300
Ann Arbor, MI 48104

Citizens Bank, N.A.
c/o Michael I. Zousmer, Esq.
Zousmer Law Group PLC
4190 Telegraph Rd., Ste. 3000
Bloomfield Hills, Michigan 48302

Congil Truck Lines Ltd.
6216 Westminster Dr
London, ON N6P 1R2

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| Connelly Crane Rental Corp 12635 Marion Redford, MI 48239 |
| Daniel B. Hagy 4582 Lakeshore Drive Fort Gratiot, MI 48059-4582 |
| Daniel Carter c/o John F. Harrington 30500 Van Dyke Ave Ste 200 Warren, MI 48093 |
| EBF Holdings, LLC d/b/a Everest Business Funding c/o Michael W. Davis, Esq. 601 S. Figueroa Street, Suite 2130, Los Angeles, CA 90017 |
| ERC Specialists, LLC 560 E Timpanogos Circle Orem, UT 84097 |
| Genniver Jameel 7178 Lasher Road Bloomfield Hills, MI 48301 |
| IOU Central, Inc. d/b/a IOU Financial, Inc. c/o Aubrey Thrasher, LLC 12 Powder Springs Street Suite 240 Marietta, GA 30064 |
| Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346 Philadelphia, PA 19101-7346 |
| J & H Transportation Inc 39999 Garfield Rd Clinton Township, MI 48038 |
| Jennifer Hernandez 49145 Cranbrook Drive Macomb, MI 48044 |
| Kelsey Acho 32721 White Oaks Trail Franklin, MI 48025 |

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c/o CRF Solutions
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Simi Valley, CA 93062

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Macomb, MI 48044

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Matt Decoster
37676 Huron Pointe Drive
Harrison Township, MI 48045

Mohamed Saad
c/o Osipov Bigelman, P.C.
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Southfield, MI 48076

Pawnee Leasing Corporation
c/o Ali
654 Amherst Road Suite 320
Sunderland, MA 01375

Ray Wiegand's Nursery, Inc.
47747 Romeo Plank Rd
Macomb, MI 48044

Rock Bottom Stone Supply
PO Box 190081
Burton, MI 48519

Ryan Kelly
8884 Morning Mist Dr.
Clarkston, MI 48348

SCP Distributors, LLC
c/o Scott R. Cheatham
Adams and Reese LLP
701 Poydras Street, Suite 4500
New Orleans, LA 70139

State of Michigan Unemployment Insurance Agency
3024 W. Grand Blvd., Ste 12-650
Tax Office
Detroit, MI 48202

Stephanie Wells
19489 Waltham Rd.
Beverly Hills, MI 48025

The Hills of Lone Pine Association
c/o Norman Orr
201 West Big Beaver Suite 600
Troy, MI 48084

U.S. Bank National Association
Bankruptcy Department
PO Box 108
Saint Louis MO 63166-0108

U.S. Small Business Administration
2 North Street, Suite 320
Birmingham, AL 35203

Western Equipment Finance, Inc.
P.O. Box 640
Devils Lake, ND 58301